

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury
Director, Exempt Organizations

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Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

Uniform Issue List Number:

UIL: 4945.04-04

Legend:

B= Foundation
C= Organization
D= Program
E= Company
x= amounts
y= amounts

Dear :

This is in reference to your letter of May 8, 2008 requesting advance approval of your grant procedures under section 4945(g)(1) of the Internal Revenue Code.

The information submitted indicates that grants funded by B will be administered, supervised, and paid out by C. C is exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code and has been classified as a publicly supported organization. The name of your scholarship program is D.

Under the terms of an agreement, you will make annual contributions to C to fund scholarships for the children of the employees of E. C will prepare and furnish application forms, receive all applications, determine the recipients and amount to be awarded, notify the recipients of the award, confirm enrollment in an educational institution, make payment of the award, and supervise and investigate the use of the grant funds by the recipients in their educational programs. Recipients are determined solely by C utilizing selection criteria you provided whereby each candidate is evaluated based on the following: past academic record and future potential, demonstrated leadership and participation in school and community activities, honors, work experience, statement of goals and educational aspirations and goals, unusual personal or family circumstances, and an outside appraisal. Financial need will be

Foundation
EIN

considered. Recipients will be selected from a pool of qualified applicants with primary consideration given to those who demonstrate the greatest need.

C will issue the following reports to B.

- Program Summary (number of awards, size of awards, and final fees)
- Recipient Form (student names, institution going to)
- Location Summary (towns recipients came from)
- Statistical Report (complete breakdown by demographics of recipients)
- Program History (will not be produced until the second year of participation)

The authorized distributions for new awards will be x. Awards ranging from y will be given.

Examples of unusual personal or family circumstances include a student's lower grade point average that would typically be beyond their control. Examples of these circumstances would include learning disabilities or handicaps or the loss of an immediate family member.

Financial need will be considered in determining the amount of each award. Recipients must demonstrate need to receive an award.

Preference will be given to students planning to enroll or who are already enrolled in a full-time undergraduate course of study at an accredited two-year college or vocational-technical school.

Awards are not renewable; however, students may apply to the program each year they meet eligibility requirements. Awards are for undergraduate study only.

The number of new awards in any year will not exceed 25 percent (after applying the rounding convention of the IRS Rev. Proc. 94-78) of the number of employees' children who: (i) were eligible; (ii) were applicants for such grants; and (iii) were considered by the selection committee in selecting the recipients of grants in that year.

The scholarships will not be used as a means of inducement to recruit employees for B and E nor will a grant be terminated if the employee leaves B and E. Scholarships will only be awarded to students that plan to enroll in an institution that meets the requirements of section 170(b)(1)(A)(ii) of the Code. The recipient will not be restricted in his/her course of study. C will supply statistical information on applications received and grants made, which will enable you to maintain the records required by Rev. Proc. 76-47, 1976-2 C.B. 670. You will ensure compliance with the percentage tests under section 4.08 of Rev. Proc. 76-47 in the aggregate with respect to your other scholarship programs available to the same individuals.

Selection of grant recipients under B will be made by a committee of individuals, chosen and directly solely by C, who are knowledgeable in the education field and who have the

Foundation
EIN

background and knowledge to properly evaluate the potential of applicants. The selection committee will be totally independent and separate from B and E.

Selection of recipients will be forwarded by C to B solely to verify the recipients' eligibility requirements and the selection criteria followed by the committee in considering the candidates the candidates and in making selections. Public announcement of the B grants will be made either by C selection committee or by B.

B imposes minimum requirements for grant eligibility. These requirements are related to the purpose of B and act to limit the selection committee's consideration to those children of employees who both meet the minimum standards for admission to an educational institution for which grants are available and would be reasonably be expected to attend such institution. The following requirements are placed on applicants:

- a. Applicants must be dependent* children, age 24 and under, of employees of E who have a minimum of one year of employment with the company as of the application deadline date. Eligibility is not related to any other employment related factors.

* Dependent children are defined as natural and legally adopted children or a stepchild/children living in the employee's household or primarily supported by the employee.

- b. Applicants must be high school seniors who plan to enroll for the first time or students who are already enrolled in a "full-time" undergraduate course of study at an accredited two-year or four-year college or university.

Section 4945 of the Code provides for the imposition of taxes on each taxable expenditure of a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of section 4945(g).

Section 4945(g)(1) of the Code provides that section 4945(d)(3) shall not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary, if it is demonstrated to the satisfaction of the Secretary that the grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational institution described in section 170(b)(1)(A)(ii).

Revenue Ruling 81-217, 1981-2 C.B. 217, describes a situation involving a private foundation making grants to an organization that is not a private foundation to provide scholarships only to children of a particular employer. The organization that is not a private foundation evaluates the students according to its own criteria, including student performance on a qualifying examination. Since grant funds are distributed only to children of employees of a

Foundation
EIN

particular company, students who receive scholarships are not selected "completely independently" of the grantor. Accordingly, any such scholarships awarded and paid after March 8, 1982, are considered to be individual grants under section 4945(d)(3), for which advance approval of grant procedures are required under section 4945(g).

Rev. Proc. 76-47, 1976-2 C.B. 670, sets forth guidelines for a private foundation conducting an employer related grant program to obtain advance approval of its procedures for conducting such a program under section 4945(g) of the Code. Sections 4.01 through 4.07 set forth eight conditions which a private foundation must meet in order to obtain advance approval of its procedures under section 4945(g) of the Code. Section 4.08 provides that a private foundation which makes scholarship awards to children of employees of a company, or to the employees themselves will meet this test if it limits these grants to 25% of all eligible applicants or 10% of all those shown to be eligible in any given year. Renewals of grants awarded in prior years will not be considered in determining the number of grants awarded in a current year.

Based upon the information submitted, and assuming your program will be conducted as proposed, with a view to providing objectivity and nondiscrimination in the awarding of scholarship grants, we rule that your grants to C for the awarding of scholarship grants comply with the requirements of section 4945(g)(1) of the Code. Expenditures made in accordance with these procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3) of the Code, and as such are eligible for the exclusion from income provided for in section 117(a) of the Code to the extent that such grants are actually used for qualified tuition and related expenses within the meaning of section 117(b)(2) of the Code.

This ruling is conditioned on the understanding that there will be no material changes in the facts upon which it is based. It is further conditioned on the understanding that no grants will be awarded to your organization's creators, officers, directors, trustees, or members of the selection committee, or for a purpose inconsistent with the purposes described in section 170(c)(2)(B) of the Code.

The approval of your grant-making procedures is a one time approval of your system of standards and procedures for selecting recipients of grants that meet the requirements of section 4945(g)(1) of the Code. Thus, approval will apply to succeeding grant programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions, that we intend to make available for public inspection, is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

- 5 -

Foundation
EIN

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert Choi
Director of Exempt Organizations
Rulings and Agreements

Enclosure: Notice 437